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JUN 19 2006

Docket No.: 200209039-2 (1509-489)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Christopher MARTIN

U.S. Patent Application No. 10/783,031

Filed: February 23, 2004

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: Confirmation No. 3785
:
: Group Art Unit: 2182
:
: Examiner: AURANGZEB HASSAN

For: DATA STORAGE DRIVE AND METHOD EMPLOYING DATA COMPRESSION

RESPONSE TO RESTRICTION REQUIREMENTCommissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

By Official Action mailed May 19, 2006, restriction to one of the following inventions and/or species of the claimed invention is required:

Species I: Claims 1-21 are directed to temporary tape storage with selective compression and writing data.

Species II: Claims 22-27, 29 and 30 are directed to a monitoring element and a control element and a disable component triggered by a low boundary condition.

Species III: Claims 28, 31, 32, and 34-36 are directed to a detailed high and low buffer memory value compression.

Species IV: Claim 33 is directed to supplying bursts of data to a buffer memory in a variable first and second data rate relative to a transducer.

Application No.: 10/783,031Docket No.: 1509-489

In response, Applicants hereby elect Species II, upon which claims 1, 22-27, 29-30 are readable. Claim 1 is generic.

The election is made *with traverse* because the Examiner has failed to follow proper USPTO practice and procedure.

Every requirement to restrict has two aspects:

(A) the reasons (as distinguished from the mere statement of conclusion) why the inventions as claimed are either independent or distinct; and

(B) the reasons for insisting upon restriction therebetween. See MPEP, section 808 (emphasis added).

In this case, the Examiner has met none of the above requirements. The Examiner's Restriction Requirement is therefore improper and should be withdrawn or at least rephrased.

In addition, the Examiner's Restriction Requirement is improper, because claims are not species and, therefore, are not restrictable. See MPEP, section 806.04(e).

In view of the above, withdrawal of the Restriction Requirement and consideration of all claims pending in the instant application are believed appropriate and therefore courteously solicited.

Early examination on the merits is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to

Application No.: 10/783,031

Docket No.: 1509-489

such deposit account.

Respectfully submitted,
Christopher MARTIN

By:  Benjamin J. Hauptman
Registration No. 29,310

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400
703-684-1111 Telephone
970-898-0640 Telecopier
Date: June 19, 2006

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